

Dry Cleaner Fee Issue

Background

The Dry Cleaners Environmental Cleanup Program was created by the Legislature on October 14, 1997 in cooperation with the dry cleaning industry. The Wisconsin Department of Natural Resources was charged with overseeing the program. Chapter NR 169 was promulgated in February, 2000 and established the criteria for reimbursement of cleanup related costs from the Dry Cleaners Environmental Fund (DERF). Funding is provided by the dry cleaning industry to help pay for environmental cleanups associated with contamination at certain dry cleaning operations. As part of establishing the fund, the dry cleaners provided the RR Program with funding for 2 positions in order to provide technical reviews and program oversight.

Chapter NR 169 identifies a number of agency reviews that do not require a fee under NR 749. In addition, DNR has typically not charged fees for review of most documents because of the funding provided through dry cleaner fees. A brief summary of the specific references in NR 169 where dry cleaners are exempted from paying fees is listed below.

- NR 169.09(2)(f) Note: If departmental review of site investigation scoping or other equivalent pre-discovery activities is requested, the review will be subject to fees under ch. NR 749. If a release is documented, those fees are eligible expenses for the purpose of reimbursement.
- NR 169.11(1)(b)4. Note: NR 749 fees are not required for review of an interim action report.
- NR 169.11(1)(c)5 Note: NR 749 fees are not required for review of SI workplans.
- NR 169.11(1)(c)7 Note: NR 749 fees are not required for review of SI reports.

In addition to these references, there are 2 other situations where fees have not been charged and we do not intend to charge for these type of reviews in the future. This includes:

- Review of remedial action plans, and
- Review of DERF reimbursement applications.

The one type of submittal that DNR previously established do apply to DERF sites are closure fees (including review of the closure report and GIS registry fees).

Current Situation

Recently, we received a question from a Regional Project Manager about whether a dry cleaner should be charged a fee for a requested meeting to go over the results of several remedial actions that had been implemented at a site. In evaluating the request, the Department reviewed the number of hours being spent in implementing the dry cleaner program. For the first half of the current fiscal year, we have logged almost 300 hours more than we are provided funding for and the trend is upwards. We estimate that we will be approximately 0.5 FTE over the funded amount by the end of the fiscal year.

As a result of our increased level of effort and decreasing staff resources, we feel it is appropriate to charge fees under NR 749 **if DNR assistance is requested**. The types of fees that would apply to DERF sites would include such things as:

- site-specific soil cleanup standards (\$750),
- review of O&M reports (\$300),
- technical assistance with such things as waste determinations (\$500), and
- any of the brownfield assistance letters (i.e. off-site letters (\$500) and general liability clarification letters (\$500).